S.B. Civil Writ Petition No.6152/96

Prahlad Gurjar & Ors. Vs. Harish Chandra Mathur

Date of Order : 27/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Manish Bhandari, for petitioners
Mr. Virendra Lodha, for respondent

This matter has come up on application for early hearing of the petition and with the consent of parties, the writ petition is finally heard and disposed of at this stage.

Undisputedly, all the five petitioners are working on daily wages basis since 1994 onwards and at the time of their initial appointment, they were fixed @ Rs.32/- per day which has later been revised from time to time and they are being paid minimum wages as notified by the Government under the Minimum Wages Act.

The basic grievance is that despite they are working on daily wages basis for sufficient long time, still they are being paid minimum wages. The petitioners are in the cadre of Class IV and it is not the case of the respondents that appointment was made in violation of scheme of rules or either of the petitioners is not eligible to hold the post of

which they are discharging duties since 1994 onwards.

This court in the case of Jai Singh Gurjar & Ors. Vs. State of Rajasthan where the petitioners have been engaged in the same establishment and working on daily wages basis, examined the scheme and so also their working condition and finally vide judgment dt.11th December, 1996 in C.W. No.1364/95 directed the respondents to fix the petitioners in the minimum of pay scale of the cadre of Class IV and their claim with regard to regularization is concerned, it has been observed that same shall be considered under the relevant rules. Against the said judgment, Special Appeal No.308/97 was preferred before the Division Bench and that too was dismissed on 16th July, 1997. Further Review Petition No.175/97 was filed by the respondents, which was decided on 15th February, 2001 and the relief as granted by the learned Single Judge so far as minimum of pay is concerned, the same remained unaffected except that so far as back wages is concerned, the petitioner was made entitled from January, 2000 and not from the date as observed by the learned Single Judge and in compliance of the judgment of Division Bench of this court, all the three writ petitioners along Jai Singh Gurjar were

appointed in the minimum of pay scale of the cadre of Class IV vide order dt.17th March, 2001. It is not the case of respondent that there is no sanctioned post available or their services are not satisfactory which they are discharging in the cadre of Class IV. No distinction has been pointed by the counsel for respondent as what has been observed by this court in the judgment referred to supra. In my opinion, the present petitioners are entitled for same treatment as granted by this court in terms of judgment dt.11th December, 1996.

Consequently, the writ petition is partly allowed and the respondent is directed to fix the petitioners in the minimum of pay scale of the cadre of Class IV and arrears shall be payable to them w.e.f. 1.11.2000. So far as regularization is concerned, the petitioners shall also be considered according to seniority and under the relevant rules. The respondent shall ensure the compliance of this order within a period of two months. No costs.

[Ajay Rastogi],J.

FRB